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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/583,346	05/31/2000	Rabindranath Dutta	AUS920000192US1	2382
45502	7590	06/26/2012	EXAMINER	
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ART UNIT		PAPER NUMBER		
2628				
			NOTIFICATION DATE	DELIVERY MODE
			06/26/2012	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RABINDRANATH DUTTA

Appeal 2011-005435
Application 09/583,346
Technology Center 2600

Before MAHSHID D. SAADAT, CARL W. WHITEHEAD, JR.,
and BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from a final rejection of claims 2-8, 11, 12, 14-17, 20, 21, 23-26, and 28-33. Claims 1, 9, 10, 13, 18, 19, 22, and 27 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Introduction

Appellant's invention relates to a method for displaying data on a handheld device such that the displayed data is flipped between different orientations in order to effectively display the data (Spec. 3:12-24).

Exemplary Claim

Exemplary independent claim 28 reads as follows:

28. A method for displaying data on a portable device having a display that is significantly larger in a first dimension than in a second dimension, said method comprising the steps of:

receiving a data page in the portable device;

the portable device analyzing the data page to determine an orientation for presentation of the data page relative to the first and second dimensions of the display; and

the portable device automatically displaying the data page in a first orientation within the display in response to determining the first orientation and the portable device automatically displaying the data page in a second orientation within the display in response to determining the second orientation.

The Examiner's Rejection

The Examiner rejected claims 2-8, 11, 12, 14-17, 20, 21, 23-26, and 28-33 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Register (US 5,661,632) and Reber (US 6,453,173 B1).¹

Appellant's Contention

Appellant contends that the Examiner erred in rejecting claim 28 over the combination of Register and Rhee because:

[t]he combination of *Register* and *Reber* discloses only that a user can toggle between portrait and landscape display modes using manually manipulable toggle buttons on a handheld computer 10. The combination of *Register* and *Reber* utterly fails to disclose, suggest or motivate a portable device analyzing a data page to determine the orientation of display for the data page.

(App. Br. 10 (emphases in original)).

Appellant further asserts that Register's manual display of an image in different orientations does not meet the disputed claim feature of "a portable device analyzing a data page to determine an orientation for presentation of the data page" (Reply Br. 3). With respect to the combination of Register and Reber, Appellant contends that the resulting orientation-dependent handheld scanner does not meet the disputed claim feature (Reply Br. 4). Additionally, Appellant argues that the Examiner has not provided any objective evidence or articulated reasoning to show that the combination is proper and the resulting scanner analyzes the data page to determine the orientation of the displayed page (*id.*).

¹ The rejections of the claims under 35 U.S.C. § 112, first paragraph, have been withdrawn by the Examiner (*see* Ans. 3).

Appellant asserts the patentability of other independent claims and their respective dependent claims based on the same arguments raised for claim 28 (App. Br. 10), or presents arguments having insufficient specificities (App. Br. 11), thus allowing these claims to fall together with claim 28.

Issue on Appeal

Did the Examiner err in rejecting claims 2-8, 11, 12, 14-17, 20, 21, 23-26, and 28-33 as being obvious because the combination of Register and Reber fails to teach or suggest “the portable device analyzing the data page to determine an orientation for presentation of the data page relative to the first and second dimensions of the display” and automatically displaying the data page in the first or the second orientation, as recited in claim 28?

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellant’s arguments that the Examiner has erred. We disagree with Appellant’s conclusions. We concur with the findings and reasons set forth by the Examiner in the action from which this appeal is taken and the reasons set forth by the Examiner in the Answer in response to Appellant’s Appeal Brief. However, we highlight and address specific findings and arguments regarding claim 28 for emphasis as follows.

We understand the Examiner’s rejection to be based on the combination of Reber with Register, stating that Register’s displaying the image in both orientations would have been taken by one of ordinary skill in the art as the claimed analyzing the data to determine an orientation for presentation of the data page (Ans. 5). The Examiner further relied on Reber

for teaching automatically displaying the data page in the first and the second orientations based on the orientation of the device (Ans. 5-6). The Examiner concluded that modifying Register based on Reber's disclosure would have suggested to one of ordinary skill in the art to analyze the data pages to determine an orientation to display the data page (Ans. 6).

Reber describes a handheld communication device including an optical reader with a scanning beam responsive to an orientation of the device (Abstract; col. 2, ll. 26-36). In response to one of the orientation sensors 48 and 49 (Fig. 1; col. 12, ll. 13-17), Reber automatically varies the scanning axis of the beam depending on the orientation of the device (col. 13, ll. 4-7). Reber scans the light beam horizontally to read the horizontally-oriented bar codes regardless of the device's orientation (col. 13, ll. 7-10). Therefore, the teaching value of Reber is in automatically adjusting the scanner direction based on the orientation sensed by the orientation sensors as the device is rotated into different positions.

Therefore, we concur with the Examiner (Ans. 11) that activating Register's toggle switches results in analyzing the data page for presentation. In other words, while the orientation is manually selected by the user pressing a toggle button, the data page is analyzed and adjusted to be displayed in the selected orientation once the orientation is determined (*see* Register, col. 3, l. 65 – col. 4, l. 13). We find that the Examiner properly concluded it would have been obvious to one of ordinary skill in the art to modify Register with Reber's automatically adjusting and varying the display based on the orientation determined by the orientation sensors, rather than manually selecting the orientation.

Additionally, we disagree with Appellant's arguments (Reply Br. 3), that the Examiner did not establish a *prima facie* case of obviousness. While, "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness," such reasoning can be based on interrelated teachings of multiple patents, the effects of demands known to the design community or present in the marketplace, and the background knowledge possessed by a person having ordinary skill in the art. *See KSR Int'l v. Teleflex, Inc.*, 550 U.S. 398, 417-18 (2007). In the present case, the Examiner determined that the combination would have resulted in determining the orientation using the orientation sensors of Reber for analyzing and automatically displaying the data page in the sensed orientation (Ans. 5-6, 11). We find this articulated rationale to be reasonable and sufficient to justify the proposed combination.

We further find Appellant's argument that the disputed claim feature cannot be met by the toggle buttons of Register (Reply Br. 3-4), to be based on evaluating the applied references individually. The Examiner, in fact, relied on Register for teaching how the data page is analyzed to determine the orientation for presentation once the orientation is determined by the user, whereas Reber was relied on for disclosing automatically displaying the data based on the orientation determined by the orientation sensors. Contrary to Appellants' position (Reply Br. 4), such combination does not require modifying Register with Reber to obtain an "orientation-dependent handheld scanner," but would only take into account the teachings of Reber related to automatically varying and adjusting the scanning direction in response to the determined orientation of the device by the orientation sensors and apply it to the display of Register. "The test for obviousness is

Appeal 2011-005435
Application 09/583,346

not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference . . . [r]ather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art." *See In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

As such, we concur with the Examiner's conclusion that the combination of Register and Reber would have suggested the disputed claimed limitations to one of ordinary skill in the art.

CONCLUSION

On the record before us, we conclude that, because the references teach or suggest all the claim limitations, the Examiner has not erred in rejecting the claims as being obvious over Register and Reber. Therefore, we sustain the 35 U.S.C. § 103 rejections of claim 28, and of the remaining claims, which fall therewith.

DECISION

The decision of the Examiner rejecting claims 2-8, 11, 12, 14-17, 20, 21, 23-26, and 28-33 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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